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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1900

**Introduced by Assembly Members Gatto, Chesbro, and
Roger Hernández**
(Coauthors: ~~Assembly Members Gordon and Valadao~~)
(Coauthor: *Assembly Member Gordon*)
(Coauthor: *Senator Cannella*)

February 22, 2012

An act to amend Sections 25420 and 25421 of the Health and Safety Code, ~~to amend Sections 25741, 25746, and 25751 of the Public Resources Code, and to amend Sections 399.17, 399.18, 399.21, 399.25, and Section 454.4 of,~~ and to add Sections 399.24 and 769 to, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1900, as amended, Gatto. Renewable energy resources: biomethane.

Existing law requires the Public Utilities Commission (PUC) to specify the maximum amount of vinyl chloride that may be found in landfill gas. Existing law prohibits a gas producer from knowingly selling, supplying, or transporting to a gas corporation, and a gas corporation from knowingly purchasing, landfill gas containing vinyl chloride in a concentration exceeding the maximum amount determined by the PUC. Existing law requires a person who produces, sells, supplies, or releases landfill gas for sale offsite to a gas corporation to

sample and test, bimonthly, the gas at the point of distribution for chemicals known to the state to cause cancer or reproductive toxicity.

This bill would require the PUC to identify all constituents that may be found in landfill gas that is to be injected into a common carrier pipeline and that could adversely impact the health and safety of the public, and to specify the maximum amount of those constituents that may be found in that landfill gas. This bill would require the PUC to develop reasonable and prudent testing protocols for gas collected from a solid waste landfill that is to be injected into a common carrier pipeline to determine if the gas contains any of the identified constituents at levels that exceed the standards set by the PUC. This bill would prohibit a gas producer from knowingly selling, supplying, transporting, or purchasing gas collected from a hazardous waste landfill.

This bill would require the PUC, on or before January 1, 2014, to consider adopting pilot projects involving the injection of biomethane into common carrier pipelines where a project satisfies certain safety, quality, and efficiency requirements, as specified. This bill would require the PUC to adopt policies and programs that promote the in-state production and distribution of biomethane.

~~Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to certify eligible renewable energy resources that it determines meet specified statutory criteria.~~

~~This bill would require the Energy Commission to establish revised precertification and certification procedures for facilities that are not yet operational and are applying for certification as eligible renewable energy resources. This bill would allow the Energy Commission, in establishing the precertification and certification procedures, to establish conditions for certification. This bill would require the Energy Commission to certify a facility if, after becoming operational, the facility meets all of the conditions established in the precertification approval. The Energy Commission would not be permitted to alter these conditions retroactively, unless doing so is necessary for reasons specific to the health and safety of the public. This bill would apply retroactively to all Energy Commission precertifications and certifications of a facility if the facility's eligibility as an eligible renewable energy resource is based on the use of landfill gas or digester gas that is delivered to the facility through a common carrier pipeline, and the owner or operator of the facility executed a contract for procurement of a renewable source of energy, as defined, before January 1, 2013. This bill would require~~

~~the Energy Commission to review an application for certification of a facility as an eligible renewable energy resource based on the rules related to the use of pipeline biomethane contained in the Energy Commission's Committee Draft, Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition, as prescribed. This bill would require the Energy Commission, in certifying or precertifying an eligible renewable energy resource utilizing biomethane, to certify a facility using biomethane according to biomethane source categories, as specified. This bill would require the Energy Commission to ensure that the operator of a facility seeking certification demonstrates that the biomethane is injected into a pipeline that is directly connected to an interstate pipeline system that, at the time of the execution of the biomethane procurement contract, regularly provides natural gas to the facility that contracts for that dedicated biomethane.~~

~~Existing law requires the Energy Commission to design and implement an accounting system to verify compliance with the California Renewables Portfolio Standard Program requirements by retail sellers and local publicly owned electric utilities.~~

~~This bill would require the Energy Commission to design and implement an accounting system to ensure that consumption of biomethane and the resulting electrical products are counted a total of one time for the purpose of meeting the renewables portfolio standard requirements and receiving greenhouse gas benefits, as provided by the laws of this state or any other state, or by the laws of any other country.~~

~~This bill would also require the PUC to specify minimum electricity targets for electrical corporations to procure electricity from landfill gas in their annual procurement updates.~~

~~Existing law allows the PUC to set heating and purity requirements for biomethane injected into a gas pipeline. Existing law allows gas corporations to impose tariffs on biomethane injected into their pipelines.~~

~~This bill would require the PUC to adopt pipeline access rules that are the substantial equivalent of Rule 39 of San Diego Gas and Electric Company's Gas Tariff Rule Book to ensure that each gas corporation provides nondiscriminatory open access to its gas pipeline system to any party for the purpose of physically interconnecting with the gas pipeline system and effectuating the delivery of gas.~~

~~This bill would make other conforming changes.~~

~~Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.~~

Because this bill would require action by the PUC to implement certain of its requirements, a violation of which would be a crime, these provisions would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would become operative only if this bill and AB 2196 of the 2011–12 Regular Session are both enacted and become effective on or before January 1, 2013.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25420 of the Health and Safety Code is
- 2 amended to read:
- 3 25420. For purposes of this chapter, the following definitions
- 4 apply:
- 5 (a) “Commission” means the Public Utilities Commission.
- 6 (b) “Delivery of landfill gas by dedicated pipeline” means gas
- 7 captured at a solid waste facility and transported from that site to
- 8 an eligible renewable energy resource, as defined in the California
- 9 Renewables Portfolio Standard Program (Article 16 (commencing
- 10 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
- 11 Public Utilities Code), that utilizes best available control
- 12 technology for the control of air pollutants, using a pipeline that
- 13 is not a common carrier pipeline used to transport natural gas to
- 14 customers other than the eligible renewable energy resource, or
- 15 otherwise subject to the jurisdiction of the commission.
- 16 (c) “Department” means the Department of Toxic Substances
- 17 Control.
- 18 (d) “Gas corporation” has the same meaning as defined in
- 19 Section 222 of the Public Utilities Code and is subject to rate
- 20 regulation by the commission.
- 21 (e) “Hazardous waste landfill” means a landfill that is a
- 22 hazardous waste facility, as defined in Section 25117.1.

1 (f) “Person” means an individual, trust, firm, joint stock
2 company, partnership, association, business concern, limited
3 liability company, or corporation. “Person” also includes any city,
4 county, district, and the state or any department or agency thereof,
5 or the federal government or any department or agency thereof to
6 the extent permitted by law.

7 (g) “Solid waste landfill” means a landfill that is a solid waste
8 facility, as defined in Section 40194 of the Public Resources Code,
9 or at which solid waste, as defined in Section 40191 of the Public
10 Resources Code, is disposed.

11 SEC. 2. Section 25421 of the Health and Safety Code is
12 amended to read:

13 25421. (a) (1) The commission shall, by rule or order, identify
14 all constituents that may be found in landfill gas that is to be
15 injected into a common carrier pipeline and that could adversely
16 impact the health and safety of the public. Potential impacts
17 include, but are not limited to, health and safety hazards to utility
18 employees or to the general public, damage to pipeline facilities,
19 and other impacts that may inhibit the marketability of gas.

20 (2) The commission shall, by rule or order, specify the maximum
21 amount of constituents identified pursuant to paragraph (1) that
22 may be found in landfill gas that is to be injected into a common
23 carrier pipeline. The maximum amount adopted by the commission
24 shall not exceed the equivalent of the no significant risk level set
25 in Section 25705 of Title 27 of the California Code of Regulations
26 for constituents that are specified in that section.

27 (3) This subdivision does not require the commission to revise
28 any standard in effect on the effective date of this paragraph.

29 (b) The commission shall make findings that are sufficient to
30 ensure that the standards adopted pursuant to subdivision (a) do
31 not do either of the following:

32 (1) Expose any customer, employee, or other person to landfill
33 gas if that gas contains any chemical known to the state to cause
34 cancer or reproductive toxicity without first giving clear and
35 reasonable warning to that individual, except as provided by
36 Section 25249.10.

37 (2) Expose a natural gas pipeline to an unreasonable risk of
38 harm to pipeline integrity.

39 (c) The commission shall develop reasonable and prudent testing
40 protocols for gas collected from a solid waste landfill that is to be

1 injected into a common carrier pipeline to determine if the gas
2 contains any of the constituents that the commission has identified
3 pursuant to subdivision (a) at levels that exceed the standards set
4 by the commission.

5 (1) Recognizing the potential environmental benefits of landfill
6 gas that satisfies required standards and specifications, the
7 commission shall ensure that the protocols it adopts pursuant to
8 this section provide for efficient testing procedures that accurately,
9 and, where needed, continuously, identify levels of constituents
10 in landfill gas that is to be injected into a common carrier pipeline.

11 (2) Every person who produces, sells, supplies, or releases gas
12 collected at a solid waste landfill, that is to be injected into a
13 common carrier pipeline for sale offsite to a gas corporation or
14 noncore customer, shall comply with the standards and testing
15 protocols set by the commission.

16 (d) (1) A gas producer shall ensure that landfill gas it seeks to
17 inject into a pipeline satisfies the standards set by the commission
18 pursuant to subdivision (a). A gas corporation shall administer
19 testing protocols consistent with those standards, and shall not
20 knowingly accept landfill gas that does not satisfy those standards.

21 (2) A gas producer shall not knowingly sell, supply, or transport
22 gas collected from a hazardous waste landfill to a gas corporation.
23 A gas corporation shall not knowingly purchase gas collected from
24 a hazardous waste landfill.

25 (e) This section does not prohibit the onsite usage of landfill
26 gas for the generation of electricity or any other onsite productive
27 use by an eligible renewable energy resource, or the delivery of
28 landfill gas by a dedicated pipeline for the generation of electricity,
29 the production of steam, or any other productive use or other
30 industrial applications.

31 ~~SEC. 3. Section 25741 of the Public Resources Code is~~
32 ~~amended to read:~~

33 ~~25741. As used in this chapter, the following terms have the~~
34 ~~following meaning:~~

35 (a) ~~“Renewable electrical generation facility” means a facility~~
36 ~~that meets all of the following criteria:~~

37 (1) ~~The facility uses biomass, solar thermal, photovoltaic, wind,~~
38 ~~geothermal, fuel cells using renewable fuels, small hydroelectric~~
39 ~~generation of 30 megawatts or less, digester gas, municipal solid~~
40 ~~waste conversion, landfill gas, ocean wave, ocean thermal, or tidal~~

1 current, and any additions or enhancements to the facility using
2 that technology.

3 (2) The facility satisfies one of the following requirements:

4 (A) The facility is located in the state or near the border of the
5 state with the first point of connection to the transmission network
6 of a balancing authority area primarily located within the state.
7 For purposes of this subparagraph, “balancing authority area” has
8 the same meaning as defined in Section 399.12 of the Public
9 Utilities Code.

10 (B) The facility has its first point of interconnection to the
11 transmission network outside the state, within the Western
12 Electricity Coordinating Council (WECC) service area, and
13 satisfies all of the following requirements:

14 (i) It commences initial commercial operation after January 1,
15 2005.

16 (ii) It will not cause or contribute to any violation of a California
17 environmental quality standard or requirement.

18 (iii) It participates in the accounting system to verify compliance
19 with the renewables portfolio standard once established by the
20 commission pursuant to subdivision (f) of Section 399.25 of the
21 Public Utilities Code.

22 (C) The facility meets the requirements of clauses (ii) and (iii)
23 in subparagraph (B), but does not meet the requirements of clause
24 (i) of subparagraph (B) because it commenced initial operation
25 prior to January 1, 2005, if the facility satisfies either of the
26 following requirements:

27 (i) The electricity is from incremental generation resulting from
28 expansion or repowering of the facility.

29 (ii) Electricity generated by the facility was procured by a retail
30 seller or local publicly owned electric utility as of January 1, 2010.

31 (3) If the facility is outside the United States, it is developed
32 and operated in a manner that is as protective of the environment
33 as a similar facility located in the state.

34 (b) “Municipal solid waste conversion,” as used in subdivision
35 (a), means a technology that uses a noncombustion thermal process
36 to convert solid waste to a clean-burning fuel for the purpose of
37 generating electricity, and that meets all of the following criteria:

38 (1) The technology does not use air or oxygen in the conversion
39 process, except ambient air to maintain temperature control.

1 ~~(2) The technology produces no discharges of air contaminants~~
2 ~~or emissions, including greenhouse gases as defined in Section~~
3 ~~38505 of the Health and Safety Code.~~

4 ~~(3) The technology produces no discharges to surface or~~
5 ~~groundwaters of the state.~~

6 ~~(4) The technology produces no hazardous wastes.~~

7 ~~(5) To the maximum extent feasible, the technology removes~~
8 ~~all recyclable materials and marketable green waste compostable~~
9 ~~materials from the solid waste stream prior to the conversion~~
10 ~~process and the owner or operator of the facility certifies that those~~
11 ~~materials will be recycled or composted.~~

12 ~~(6) The facility at which the technology is used is in compliance~~
13 ~~with all applicable laws, regulations, and ordinances.~~

14 ~~(7) The technology meets any other conditions established by~~
15 ~~the commission.~~

16 ~~(8) The facility certifies that any local agency sending solid~~
17 ~~waste to the facility diverted at least 30 percent of all solid waste~~
18 ~~it collects through solid waste reduction, recycling, and~~
19 ~~composting. For purposes of this paragraph, "local agency" means~~
20 ~~any city, county, or special district, or subdivision thereof, which~~
21 ~~is authorized to provide solid waste handling services.~~

22 ~~(e) "Renewable energy public goods charge" means that portion~~
23 ~~of the nonbypassable system benefits charge required to be~~
24 ~~collected to fund renewable energy pursuant to the Reliable Electric~~
25 ~~Service Investments Act (Article 15 (commencing with Section~~
26 ~~399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities~~
27 ~~Code).~~

28 ~~(d) "Report" means the report entitled "Investing in Renewable~~
29 ~~Electricity Generation in California" (June 2001, Publication~~
30 ~~Number P500-00-022) submitted to the Governor and the~~
31 ~~Legislature by the commission.~~

32 ~~(e) "Retail seller" means a "retail seller" as defined in Section~~
33 ~~399.12 of the Public Utilities Code.~~

34 ~~SEC. 4. Section 25746 of the Public Resources Code is~~
35 ~~amended to read:~~

36 ~~25746. (a) One percent of the money collected pursuant to the~~
37 ~~renewable energy public goods charge shall be used in accordance~~
38 ~~with this chapter to promote renewable energy and disseminate~~
39 ~~information on renewable energy technologies, including emerging~~
40 ~~renewable technologies, and to help develop a consumer market~~

1 for renewable energy and for small-scale emerging renewable
2 energy technologies.

3 (b) If the commission provides funding for a regional accounting
4 system to verify compliance with the renewable portfolio standard
5 by retail sellers, pursuant to subdivision (f) of Section 399.25 of
6 the Public Utilities Code, the commission shall recover all costs
7 from user fees.

8 SEC. 5.— Section 25751 of the Public Resources Code is
9 amended to read:

10 25751. (a) The Renewable Resource Trust Fund is hereby
11 created in the State Treasury.

12 (b) The following accounts are hereby established within the
13 Renewable Resource Trust Fund:

14 (1) Existing Renewable Resources Account.

15 (2) Emerging Renewable Resources Account.

16 (3) Renewable Resources Consumer Education Account.

17 (c) The money in the fund may be expended, only upon
18 appropriation by the Legislature in the annual Budget Act, for the
19 following purposes:

20 (1) The administration of this article by the state.

21 (2) The state's expenditures associated with the accounting
22 system established by the commission pursuant to subdivision (f)
23 of Section 399.25 of the Public Utilities Code.

24 (d) That portion of revenues collected by electrical corporations
25 for the benefit of in-state operation and development of existing
26 and emerging renewable resource technologies, pursuant to Section
27 399.8 of the Public Utilities Code, shall be transmitted to the
28 commission at least quarterly for deposit in the Renewable
29 Resource Trust Fund pursuant to Section 25740.5. After setting
30 aside in the fund money that may be needed for expenditures
31 authorized by the annual Budget Act in accordance with
32 subdivision (c), the Treasurer shall immediately deposit money
33 received pursuant to this section into the accounts created pursuant
34 to subdivision (b) in proportions designated by the commission
35 for the current calendar year. Notwithstanding Section 13340 of
36 the Government Code, the money in the fund and the accounts
37 within the fund are hereby continuously appropriated to the
38 commission without regard to fiscal years for the purposes
39 enumerated in this chapter.

~~(e) Upon notification by the commission, the Controller shall pay all awards of the money in the accounts created pursuant to subdivision (b) for purposes enumerated in this chapter. The eligibility of each award shall be determined solely by the commission based on the procedures it adopts under this chapter. Based on the eligibility of each award, the commission shall also establish the need for a multiyear commitment to any particular award and so advise the Department of Finance. Eligible awards submitted by the commission to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes enumerated in this chapter; and an accounting of future costs associated with any award or group of awards known to the commission to represent a portion of a multiyear funding commitment.~~

~~(f) The commission may transfer funds between accounts for cashflow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the accounts.~~

~~(g) The Department of Finance shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is operative. The Department of Finance's report shall include information regarding revenues, payment of awards, reserves held for future commitments, unencumbered cash balances, and other matters that the Director of Finance determines may be of importance to the Legislature.~~

~~SEC. 6. Section 399.17 of the Public Utilities Code is amended to read:~~

~~399.17. (a) (1) Subject to this section, the requirements of this article apply to an electrical corporation that as of January 1, 2010, had 60,000 or fewer customer accounts in California and met either of the following requirements:~~

~~(A) Served retail end-use customers outside California.~~

~~(B) Was located in a control area that is not under the operational balancing authority of the Independent System Operator or other California balancing authority and receives the majority of its~~

1 ~~electrical requirements from generating facilities located outside~~
2 ~~of California.~~

3 ~~(2) This section applies to a successor entity to all or a portion~~
4 ~~of the service territory of an electrical corporation meeting the~~
5 ~~requirements of paragraph (1), but only to the extent that the~~
6 ~~successor entity will have 60,000 or fewer customer accounts in~~
7 ~~California.~~

8 ~~(b) For an electrical corporation or qualifying successor entity~~
9 ~~meeting the requirements of subdivision (a), electricity products~~
10 ~~from eligible renewable energy resources may be used for~~
11 ~~compliance with the renewables portfolio standard procurement~~
12 ~~requirements notwithstanding any procurement content limitation~~
13 ~~in Section 399.16 and an eligible renewable energy resource~~
14 ~~includes a facility that is located outside California, if the facility~~
15 ~~is connected to the WECC transmission system, provided all of~~
16 ~~the following conditions are met:~~

17 ~~(1) Any portion of the electricity generated by the facility and~~
18 ~~allocated by the electrical corporation or qualifying successor~~
19 ~~entity for its California customers, and is not used to fulfill~~
20 ~~renewable energy procurement requirements in other states.~~

21 ~~(2) The electrical corporation or qualifying successor entity~~
22 ~~participates in, and complies with, the accounting system~~
23 ~~administered by the Energy Commission pursuant to subdivision~~
24 ~~(f) of Section 399.25.~~

25 ~~(3) The Energy Commission verifies that the electricity~~
26 ~~generated by the facility is eligible to meet the procurement~~
27 ~~requirements of this article.~~

28 ~~(e) The commission shall determine the procurement~~
29 ~~requirements for an electrical corporation or qualifying successor~~
30 ~~entity meeting the requirements of subdivision (a) as a specified~~
31 ~~percentage of total kilowatthours sold by the electrical corporation~~
32 ~~to its retail end-use customers in California in a compliance period.~~

33 ~~(d) An electrical corporation or qualifying successor entity~~
34 ~~meeting the requirements of subdivision (a) may use an integrated~~
35 ~~resource plan prepared in compliance with the requirements of~~
36 ~~another state utility regulatory commission, to fulfill the~~
37 ~~requirement to prepare a renewable energy procurement plan~~
38 ~~pursuant to this article, provided the plan meets the requirements~~
39 ~~of Sections 399.13, 399.14, and 399.25, as modified by this section.~~

~~(e) Procurement and administrative costs associated with long-term contracts for eligible renewable energy resources pursuant to this article entered into by an electrical corporation or qualifying successor entity meeting the requirements of subdivision (a) and approved by the commission, are reasonable and prudent and shall be recoverable in rates of the electrical corporation or its successor's California customers, provided the costs are not recoverable in rates in other states served by the electrical corporation.~~

~~(f) Procurement expenditures for electricity products from eligible renewable energy resources pursuant to this section by an electrical corporation or successor entity meeting the requirements of subdivision (a) shall be subject to a limitation on procurement expenditures established by the commission pursuant to subdivision (e) of Section 399.15.~~

~~SEC. 7. Section 399.18 of the Public Utilities Code is amended to read:~~

~~399.18.—(a) This section applies to an electrical corporation that as of January 1, 2010, met either of the following conditions:~~

~~(1) Served 30,000 or fewer customer accounts in California and had issued at least four solicitations for eligible renewable energy resources prior to June 1, 2010.~~

~~(2) Had 1,000 or fewer customer accounts in California and was not connected to any transmission system or to the California Independent System Operator.~~

~~(b) For an electrical corporation or its successor, electricity products from eligible renewable energy resources may be used for compliance with this article, notwithstanding any procurement content limitation in Section 399.16, provided that both of the following conditions are met:~~

~~(1) The electrical corporation or its successor participates in, and complies with, the accounting system administered by the Energy Commission pursuant to subdivision (f) of Section 399.25.~~

~~(2) The Energy Commission verifies that the electricity generated by the facility is eligible to meet the requirements of Section 399.15.~~

~~SEC. 8. Section 399.21 of the Public Utilities Code is amended to read:~~

~~399.21.—(a) The commission, by rule, shall authorize the use of renewable energy credits to satisfy the renewables portfolio~~

1 standard procurement requirements established pursuant to this
2 article, subject to the following conditions:

3 (1) ~~Prior to authorizing any renewable energy credit to be used~~
4 ~~toward satisfying the renewables portfolio standard procurement~~
5 ~~requirements, the commission and the Energy Commission shall~~
6 ~~conclude that the tracking system established pursuant to~~
7 ~~subdivision (h) of Section 399.25, is operational, is capable of~~
8 ~~independently verifying that electricity earning the credit is~~
9 ~~generated by an eligible renewable energy resource, and can ensure~~
10 ~~that renewable energy credits shall not be double counted by any~~
11 ~~seller of electricity within the service territory of the WECC.~~

12 (2) ~~Each renewable energy credit shall be counted only once~~
13 ~~for compliance with the renewables portfolio standard of this state~~
14 ~~or any other state, or for verifying retail product claims in this state~~
15 ~~or any other state.~~

16 (3) ~~All revenues received by an electrical corporation for the~~
17 ~~sale of a renewable energy credit shall be credited to the benefit~~
18 ~~of ratepayers.~~

19 (4) ~~Renewable energy credits shall not be created for electricity~~
20 ~~generated pursuant to any electricity purchase contract with a retail~~
21 ~~seller or a local publicly owned electric utility executed before~~
22 ~~January 1, 2005, unless the contract contains explicit terms and~~
23 ~~conditions specifying the ownership or disposition of those credits.~~
24 ~~Procurement under those contracts shall be tracked through the~~
25 ~~accounting system described in subdivision (f) of Section 399.25~~
26 ~~and included in the quantity of eligible renewable energy resources~~
27 ~~of the purchasing retail seller pursuant to Section 399.15.~~

28 (5) ~~Renewable energy credits shall not be created for electricity~~
29 ~~generated under any electricity purchase contract executed after~~
30 ~~January 1, 2005, pursuant to the federal Public Utility Regulatory~~
31 ~~Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Procurement~~
32 ~~under the electricity purchase contracts shall be tracked through~~
33 ~~the accounting system implemented by the Energy Commission~~
34 ~~pursuant to subdivision (f) of Section 399.25 and count toward the~~
35 ~~renewables portfolio standard procurement requirements of the~~
36 ~~purchasing retail seller.~~

37 (6) ~~A renewable energy credit shall not be eligible for~~
38 ~~compliance with a renewables portfolio standard procurement~~
39 ~~requirement unless it is retired in the tracking system established~~
40 ~~pursuant to subdivision (h) of Section 399.25 by the retail seller~~

1 or local publicly owned electric utility within 36 months from the
2 initial date of generation of the associated electricity.

3 ~~(b) The commission shall allow an electrical corporation to~~
4 ~~recover the reasonable costs of purchasing, selling, and~~
5 ~~administering renewable energy credit contracts in rates.~~

6 ~~SEC. 9.~~

7 *SEC. 3.* Section 399.24 is added to the Public Utilities Code,
8 to read:

9 399.24. (a) On or before January 1, 2014, the commission
10 shall consider adopting pilot projects that satisfy all of the
11 following requirements:

12 (1) Are capable of being safely implemented.

13 (2) Demonstrate the accuracy of the commission's testing
14 protocols established pursuant to subdivision (a) of Section 25421
15 of the Health and Safety Code.

16 (3) Demonstrate the level of consistency of the quality of gas
17 injected into the gas pipeline system.

18 (4) Demonstrate the capacity of biomethane to be procured at
19 the lowest cost and best fit.

20 (b) To fill the energy and transportation needs of the state, the
21 commission shall adopt policies and programs that promote the
22 in-state production and distribution of biomethane. The policies
23 and programs shall facilitate the development of a variety of
24 sources of in-state biomethane.

25 ~~SEC. 10. Section 399.25 of the Public Utilities Code is~~
26 ~~amended to read:~~

27 ~~399.25. The Energy Commission shall do all of the following:~~

28 ~~(a) Certify eligible renewable energy resources that it determines~~
29 ~~meet the criteria described in subdivision (e) of Section 399.12.~~

30 ~~(b) (1) Establish revised precertification and certification~~
31 ~~procedures for facilities that are not yet operational and are~~
32 ~~applying for certification as eligible renewable energy resources.~~
33 ~~In establishing these precertification and certification procedures,~~
34 ~~the Energy Commission may, consistent with the criteria described~~
35 ~~in subdivision (e) of Section 399.12 and subparagraph (1) of~~
36 ~~subdivision (b) of Section 399.16, establish conditions for the~~
37 ~~certification of a facility as an eligible renewable energy resource~~
38 ~~when the facility becomes operational. If, after becoming~~
39 ~~operational, the facility meets all of the conditions established in~~
40 ~~the precertification approval, the Energy Commission shall certify~~

1 the facility as an eligible renewable energy resource. The Energy
2 Commission shall not retroactively alter the conditions for
3 certification established in a precertification approval of a facility
4 applying for certification as an eligible renewable energy resource,
5 unless doing so is necessary for reasons specific to the health and
6 safety of the public.

7 (2) Paragraph (1) shall apply retroactively to an Energy
8 Commission precertification or certification of a facility if both of
9 the following requirements in subparagraphs (A) and (B) are
10 satisfied:

11 (A) The facility's eligibility as an eligible renewable energy
12 resource is based on the use of landfill gas or digester gas that is
13 delivered to the facility through a common carrier pipeline.

14 (B) The owner or operator of the facility executed a contract
15 for procurement of a renewable source of energy pursuant to this
16 section.

17 (C) For the purposes of eligibility under this paragraph, a facility
18 that is applying for certification as an eligible renewable energy
19 resource uses landfill or digester gas when it generates energy that
20 corresponds to the rights the facility obtains through a procurement
21 contract for directed biomethane. "A procurement contract for
22 directed biomethane" for purposes of this paragraph means an
23 agreement to transfer a quantity of energy from one location to
24 another in exchange for a corresponding amount of energy,
25 provided that all environmental attributes of the energy are also
26 exchanged between the parties to the contract, and the
27 environmental attributes are attached to the energy commodity
28 that is exchanged.

29 (3) The Energy Commission shall review an application for
30 certification of a facility as an eligible renewable energy resource
31 based on the rules related to the use of pipeline biomethane
32 contained in the Energy Commission's Committee Draft,
33 Renewables Portfolio Standard Eligibility Guidebook, Fourth
34 Edition, subject to all of the following conditions:

35 (A) Before January 1, 2013, the owner or operator of the facility
36 executed a contract for procurement of biomethane pursuant to
37 this section.

38 (B) The owner or operator of the facility submitted all of the
39 forms the Energy Commission requires for certification to the
40 Energy Commission before January 1, 2013, and, at any time after

1 the submission, the Energy Commission acknowledges that it has
2 received the documents and that the documents are substantially
3 complete.

4 (e) ~~In certifying or precertifying an eligible renewable energy~~
5 ~~resource utilizing biomethane where the owner or operator of the~~
6 ~~facility executed a contract for procurement of a renewable source~~
7 ~~of energy pursuant to this section after January 1, 2013, determine~~
8 ~~which one of the following biomethane source categories is~~
9 ~~applicable:~~

10 (1) ~~A source of biomethane that results in new displacement of~~
11 ~~fossil fuels and directly achieves air quality improvements in an~~
12 ~~air basin in or affecting California.~~

13 (2) ~~A source of biomethane that results in new displacement of~~
14 ~~fossil fuels but does not directly achieve air quality improvements~~
15 ~~in an air basin in or affecting California.~~

16 (3) ~~A source of biomethane that neither results in new~~
17 ~~displacement of fossil fuels nor directly achieves air quality~~
18 ~~improvements in an air basin in or affecting California.~~

19 (d) ~~Based on the applicable biomethane source category under~~
20 ~~subdivision (e), apply the following conditions to the certification~~
21 ~~of an eligible renewable energy resource utilizing biomethane:~~

22 (1) ~~Biomethane from a source the Energy Commission~~
23 ~~determines meets the requirements of paragraph (1) of subdivision~~
24 ~~(e) may be used to meet the product content requirements of~~
25 ~~paragraphs (1), (2), or (3) of subdivision (b) of Section 399.16.~~

26 (2) ~~Biomethane from a source the Energy Commission~~
27 ~~determines meets the requirements of paragraph (2) or (3) of~~
28 ~~subdivision (e) may be used to meet the product content~~
29 ~~requirements of paragraph (3) of subdivision (b) of Section 399.16.~~

30 (e) ~~Ensure that the operator of the facility seeking certification~~
31 ~~demonstrates that the biomethane is injected into a pipeline that~~
32 ~~is directly connected to an interstate pipeline system that, at the~~
33 ~~time of the execution of the biomethane, procurement contract,~~
34 ~~regularly provides natural gas to the facility.~~

35 (f) ~~Design and implement an accounting system to verify~~
36 ~~compliance with the renewables portfolio standard by retail sellers~~
37 ~~and local publicly owned electric utilities, to ensure that electricity~~
38 ~~generated by an eligible renewable energy resource is counted~~
39 ~~only once for the purpose of meeting the renewables portfolio~~
40 ~~standard of this state or any other state, to certify environmental~~

~~attributes produced by eligible renewable energy resources, and to verify retail product claims in this state or any other state. In establishing the guidelines governing this accounting system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers and local publicly owned electric utilities, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the Energy Commission within 90 days of the request.~~

~~(g) Design and implement an accounting system to ensure that consumption of biomethane and the resulting electrical products are counted a total of one time for the purpose of the renewables portfolio standard requirements and receiving greenhouse gas benefits, as provided by the laws of this state or any other state, or by the laws of any other country.~~

~~(h) Establish a system for tracking and verifying environmental attributes that, through the use of independently audited data, verifies the generation of electricity associated with each environmental attribute and protects against multiple counting of the same environmental attributes. The Energy Commission shall consult with other western states and with the WECC in the development of this system.~~

~~(i) Certify, for purposes of compliance with the renewables portfolio standard requirements by a retail seller, the eligibility of environmental attributes associated with eligible renewable energy resources procured by a local publicly owned electric utility, if the Energy Commission determines that all of the conditions of Section 399.31 have been met.~~

~~(j) For the purposes of this section, "biomethane" means methane not derived, in whole or in part, from fossil fuels. "Biomethane" includes landfill gas, digester gas derived from digestion of organic material, including wastewater treatment plant gas and municipal solid waste conversion.~~

~~SEC. 11.~~

~~SEC. 4. Section 454.4 of the Public Utilities Code is amended to read:~~

1 454.4. (a) The commission shall establish rates for gas which
2 is utilized in cogeneration technology projects not higher than the
3 rates established for gas utilized as a fuel by an electric plant in
4 the generation of electricity, except that this rate shall apply only
5 to that quantity of gas which an electrical corporation serving the
6 area where a cogeneration technology project is located, or an
7 equivalent area, would require in the generation of an equivalent
8 amount of electricity based on the corporation's average annual
9 incremental heat rate and reasonable transmission losses or that
10 quantity of gas actually consumed by the cogeneration technology
11 project in the sequential production of electricity and steam, heat,
12 or useful work, whichever is the lower quantity.

13 (b) The commission shall specify minimum electricity targets
14 for electrical corporations to procure electricity from landfill gas
15 in their annual procurement updates.

16 ~~SEC. 12.~~

17 *SEC. 5.* Section 769 is added to the Public Utilities Code, to
18 read:

19 769. For each gas corporation, the commission shall adopt
20 pipeline access rules that are the substantial equivalent of Rule 39
21 of San Diego Gas and Electric Company's Gas Tariff Rule Book,
22 as was in effect on January 1, 2013, to ensure that each gas
23 corporation provides nondiscriminatory open access to its gas
24 pipeline system to any party for the purpose of physically
25 interconnecting with the gas pipeline system and effectuating the
26 delivery of gas.

27 *SEC. 6. This act shall become operative only if this act and*
28 *Assembly Bill 2196 of the 2011–12 Regular Session are both*
29 *enacted and become effective on or before January 1, 2013.*

30 ~~SEC. 13.~~

31 *SEC. 7.* No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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